IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 23709 of 2004

Between:

Parameshwari Picture Palace, Kadiri, Ananthapur District,
represented by its Managing Partner K. V. Brahmaiah.

..... PETITIONER

AND

1 The Vigilance & Enforcement Wing, Kurnool Unit, Kurnool.
2 The Assistant Commercial Tax Officer -cum- Enforcement Tax Officer,
Kadiri, Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of the respondents herein in seizing the records of the petitioner theatre and imposing the penalty by obtaining post dated cheques from the petitioner, as illegal, null and void and arbitrary.

Counsel for the Petitioner: MR.K.DURGA PRASAD

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed seeking Writ of Mandamus declaring the action of the respondents in seizing the records of the petitioner-theatre and imposing the penalty by obtaining post dated cheques from the petitioner, as illegal, null and void and arbitrary.

2. At the threshold we are not at all impressed with the prayer made in the Writ Petition with reference to the facts alleged. According to the learned counsel for the petitioner the documents were seized in 2002. It is not understood as to what he was doing for the last several years and moreover the authorities passed no penalty order in this regard. Under those circumstances, we are of the view that the Writ Petition is wholly misconceived.

3. Now the learned Government for Commercial Taxes submits that the amounts are due from the petitioner and the petitioner has to pay the tax by virtue of an agreement entered into between the petitioner and the Department and when he failed to pay the same, proceedings have been initiated.

4. Be that as it may, while it is open for the respondents to proceed against the petitioner for recovery of the amounts, it is also incumbent on them to issue appropriate notice in accordance with law and proceed further for the recovery of the amounts, to the petitioner.

5. With the observation indicated above, the Writ Petition is closed. No costs.

(G.BIKSHAPATHY, J.)

5th April, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

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SECTION OFFICER

To

1 The Vigilance & Enforcement Wing, Kurnool Unit, Kurnool.
2 The Assistant Commercial Tax Officer -cum- Enforcement Tax Officer, Kadiri, Ananthapur District.

3 2 CCs to G.P. for Commercial Taxes, High Court of A.P. Hyderabad. (OUT)

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